

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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Free Speech Coalition,)
et al.,)
) Plaintiffs,)
) vs.) Case No.: 02:09-4607
Eric Holder,)
) Defendant.)
- - -

Deposition of David Levingston, a plaintiff
herein, called by the defendant for
cross-examination pursuant to the Federal Rules of
Civil Procedure, taken before Karen A. Toth, RPR
and Notary Public in and for the State of Ohio, at
the offices of Berkman, Gordon, Murray & DeVan,
55 Public Square, Suite 2200, Cleveland, Ohio 44113,
on Tuesday, March 26, 2013, commencing at 11:56 a.m.

- - -

1 else.

2 Q Is youth important for a model?

3 A Not significantly, no. I work with models of
4 all ages as long as they are reasonably fit.

5 Q Okay. Have you ever worked with a model
6 that's a grandmother?

7 A Yes.

8 Q How many would you say?

9 A I don't know. Several. I have one model that
10 I've worked with quite a bit who is in her
11 late 60s.

12 Q Okay. Other than her, anyone else?

13 A There are several in their late 40s, 50s,

14 Q That are grandmothers?

15 A Yeah, I think several of them have grandkids,
16 yeah.

17 Q Would you say you've worked with ten that are
18 grandmothers?

19 A Somewhere around there maybe. I can't -- you
20 know, it's not something I track.

21 Q Right.

22 A I may not know if they are a grandmother or
23 not.

24 Q And how many models in your nude work would
25 you say you've worked with since 2002 when you

1 Q And according to the title of all digital
2 images, correct?

3 A Yes.

4 Q Or pictures?

5 A Yes. Correct.

6 Q Now, I believe you also testified that for
7 each photo shoot you take thousands of
8 pictures?

9 MR. BLADUELL: Objection. Leading.
10 Leading the witness.

11 A Yes.

12 Q How many photos do you take for each photo
13 shoot?

14 A Usually well above a thousand. Often more
15 than 2,000.

16 Q Okay. Do you title each of those digital
17 images?

18 A They have a number assigned by the camera.

19 Q Okay. So according to this regulation you
20 also are supposed to be able to have your
21 records --

22 MR. BLADUELL: Objection.

23 Q -- retrievable by the title or the number of
24 each digital image, right?

25 A Yes.

1 MS. BAUMGARDNER: Would you let me
2 finish please?

3 Q Of the models you work with are obviously
4 mature adults who could not be confused as
5 someone under 18?

6 A I would say yes.

7 Q All right. I have nothing further.

8 RECROSS-EXAMINATION

9 By Mr. Bladuell:

10 Q Mr. Levingston, could you please turn in this
11 DL18 -- well, let me step back for a moment.
12 When I asked you questions about inspection of
13 records, do you remember that I asked you
14 questions about that?

15 A Yes.

16 Q And in one of the questions -- one of your
17 responses to one of the questions was it was
18 your understanding that agents could come into
19 your studio or your house, wherever you keep
20 your records, and search every place for those
21 records, correct?

22 MS. BAUMGARDNER: Objection.

23 A No.

24 Q Could you clarify for me your answer?

25 A They could come in and inspect my records and

1 State of Ohio,)
2) SS: CERTIFICATE
3 County of Cuyahoga,)

4 I, Karen A. Toth, RPR and Notary Public
5 in and for the State of Ohio, duly commissioned and
6 qualified, do hereby certify that the within named
7 witness, Dave Livingston, was by me first duly sworn
8 to testify the truth, the whole truth, and nothing
9 but the truth in the cause aforesaid; that the
10 testimony then given by him was by me reduced to
11 stenotypy/computer in the presence of said witness,
12 afterward transcribed, and that the foregoing is a
13 true and correct transcript of the testimony so
given by him as aforesaid.

14 I do further certify that this deposition was
15 taken at the time and place in the foregoing caption
16 specified and was completed without adjournment

17 I do further certify that I am not a relative,
18 counsel, or attorney of either party, or otherwise
19 interested in the event of this action.

20 IN WITNESS WHEREOF, I have hereunto set my
21 hand and affixed my seal of office at Cleveland,
22 Ohio on this 8th day of April, 2013.

23
24 Karen A. Toth, RPR and Notary Public in
25 and for the State of Ohio.
My Commission expires May 6, 2013.